

(Do not write above this line.)

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b>			<b>PUBLIC MATTER</b>
Counsel For The State Bar  Bitu Shasty 1149 South Hill Street Los Angeles, CA 90015  Bar # 225177	Case Number (s) 05-O-00068, 05-O-04891, 05-O-02838, 05-O-04436, 05-O-05125, 07-O-11430	(for Court's use)  <div style="text-align: center;"> <b>FILED</b>  OCT 18 2018  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES </div>	
Counsel For Respondent  Michael G. Gerner 425 South Beverly Drive, Suite 210 Beverly Hills, CA 90212  Bar # 65906	Submitted to: <b>Settlement Judge</b>		
In the Matter Of: STEVEN L. MAZZA  Bar # 101076  A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		

**Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.**

#### A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 1, 1981.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 26 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: Two billing cycles following the effective date of the Supreme Court Order.  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - ☐ costs entirely waived

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
- (a) ☒ State Bar Court case # of prior case 97-O-12635
  - (b) ☒ Date prior discipline effective July 10, 2004
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: rule 4-200 & 4-100(B)(3)
  - (d) ☒ Degree of prior discipline 1 year stayed suspension, 3 years probation
  - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

Case # 98-O-01674; the recommendation was transmitted to the Supreme Court on August 11, 2010, and is awaiting final effectuation; Respondent Stipulated to 58 acts of misconduct in 19 client matters.

- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☒ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property. See Attachment page 22
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment page 22
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment page 22
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☒ **Restitution:** Respondent paid \$        on        in restitution to        without the threat or force of disciplinary, civil or criminal proceedings. See Attachment Page 24
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☒ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities. See Attachment Page 23
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☒ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature. See Attachment Page 23
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☒ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation. See Attachment Page 23
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

**D. Discipline:**

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of 2 years.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of 3 years which shall run concurrently and be merged with obligations of probation in case no. 98-O-01674, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of 9 months consecutive to the suspension in case no. 98-O-01674.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

**E. Additional Conditions of Probation:**

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

#### F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

In the Matter of  
Steven L. Mazza

A Member of the State Bar

Case number(s):  
05-O-00068, 05-O-04891, 05-O-02838, 05-O-04436,  
05-O-05125, 07-O-11430

## Financial Conditions

### a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

### b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

### c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  1. the name of such client;
  2. the date, amount and source of all funds received on behalf of such client;
  3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  1. the name of such account;
  2. the date, amount and client affected by each debit and credit; and,
  3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

**IN THE MATTER OF:**                      **STEVEN LANCE MAZZA**

**CASE NUMBERS:**                      **05-O-00068, 05-O-04891, 05-O-02838, 05-O-04436,  
05-O-05125, 07-O-11430**

**FACTS AND CONCLUSIONS OF LAW**

Respondent, Steven Lance Mazza ("Respondent") admits that the following facts are true and that he is culpable of violating the specified statutes and/or Rules of Professional Conduct.

**FACTS RE CASE NO. 05-O-02838 (THERANCE)**

1. On August 1, 2002, Lynette Therance ("Therance") was involved in an automobile accident with Pamela Villanueva ("Villanueva").
2. On August 18, 2002, Therance hired Respondent to represent her in a personal injury action against Villanueva and signed a "Retainer Agreement" that retained Respondent to represent her "regarding the incident of 8/1/02."
3. On February 18, 2003, Respondent filed a complaint on behalf of Therance titled *Lynette Therance vs. Pamela Villanueva*, LASC Case No. BC 290547 ("*Therance vs. Villanueva*"), in the Los Angeles Superior Court ("Superior Court").
4. On June 9, 2003, a clerk of the Superior Court served notice of a Case Management Conference scheduled for August 7, 2003 in *Therance vs. Villanueva*. A clerk of the Superior Court served notice of the Case Management Conference upon Respondent. Respondent received the notice of the Case Management Conference.
5. On August 7, 2003, Respondent failed to appear for the Case Management Conference in *Therance vs. Villanueva*. The Honorable Emilie H. Elias, Judge of the Superior Court ("Judge Elias"), issued an Order to Show Cause re Plaintiff's Failure to Appear for the Case Management Conference.
6. On August 11, 2003, a clerk of the Alternative Dispute Resolution ("ADR") department of the Superior Court served notice of a mediation scheduled for November 3, 2003 and Post Medication Conference scheduled for November 6, 2003 in *Therance vs. Villanueva*. A clerk of the ADR department served the notice of the Mediation and Post Medication Conference upon Respondent. Respondent received the notice of the Mediation and Post Medication Conference.
7. On November 3, 2003, Respondent failed to appear for the Mediation in *Therance vs. Villanueva*.

8. On November 6, 2003, Respondent failed to appear for the Post Mediation Status Conference in *Therance vs. Villanueva*. Judge Elias took the Post Mediation Status Conference off-calendar and dismissed the matter for lack of prosecution pursuant to Code of Civil Procedure sections 581 and 583.
9. On November 7, 2003, counsel for Villanueva filed a Notice of Ruling setting forth Judge Elias' dismissal of *Therance vs. Villanueva* and served it upon Respondent. Respondent received the Notice of Ruling.
10. On November 13, 2003, counsel for Villanueva filed a Memorandum of Costs in *Therance vs. Villanueva* and served it upon Respondent. Respondent received the Memorandum of Costs.
11. On May 7, 2003, Therance's deposition was taken by the attorneys for Villanueva in *Therance vs. Villanueva*.
12. From June 2003 through August 2003, Therance placed approximately ten telephone calls to Respondent's office to set up a time to review and make changes to the deposition and to obtain a status report on the action. Therance's telephone calls were always received by Respondent's telephone voice message system. However, she was unable to leave messages for Respondent because the telephone voice message system was always full.
13. In November or December 2003, Therance managed to contact Respondent by telephone. Therance asked Respondent about the status of the action. Respondent told her that the attorneys for Villanueva did not believe that she had been injured and demanded a jury trial. Respondent told Therance that they were waiting for a trial date, which he believed would be during the summer of 2004. Respondent told Therance that his office would contact her prior to the trial to prepare her for the proceeding.
14. During the summer of 2004, Therance placed two to three telephone calls to Respondent's office to obtain a status report on the action, but Respondent's telephone number and facsimile number had been disconnected.
15. After Therance discovered that Respondent's telephone number and facsimile number had been disconnected she research his membership information on the State Bar website. Therance located a different address, telephone number and facsimile number for Respondent on the website. She called the telephone number and facsimile number, but they had been disconnected.
16. On May 16, 2005, Therance sent a letter to Respondent that complained that Respondent had failed to communicate with her and requested a status report. The letter was placed in a sealed envelope correctly addressed to the Respondent at his State Bar membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the U.S. Postal Service. The U.S. Postal Service did not return the letter as undeliverable or for any other reason. Respondent received the May 16, 2005 letter.
17. Therance attempted to send the letter sent by facsimile, but the facsimile number listed on the State Bar's website would not accept the facsimile.

18. Respondent did not respond to Therance's May 16, 2005 letter or otherwise communicate with Therance.
19. On June 14, 2005, the State Bar opened an investigation, Case No. 05-O-02838, pursuant to a complaint filed by Therance (the "Therance matter.")
20. On August 28, 2005, a State Bar Investigator wrote a letter to Respondent regarding the Therance matter. The letter was placed in a sealed envelope correctly addressed to the Respondent at his State Bar membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the U.S. Postal Service in the ordinary course of business. The U.S. Postal Service did not return the investigator's letter as undeliverable or for any other reason. Respondent received the August 28, 2005 letter.
21. The Investigator's letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Therance matter. Respondent did not respond to the Investigator's letter or otherwise communicate with the Investigator.
22. On September 7, 2004, a Investigator wrote a letter to Respondent regarding the Therance matter. The letter was placed in a sealed envelope correctly addressed to the Respondent at his State Bar membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the U.S. Postal Service in the ordinary course of business.
23. On September 12, 2004, the U.S. Postal Service return the Investigator's letter with the following stamp on the front of the envelope "Return - to Sender - No Longer at this Address."

#### **CONCLUSIONS OF LAW RE CASE NO. 05-O-02838 (THERANCE)**

24. By failing to appear for the Case Management Conference, mediation, and Post Mediation Conference and failing to respond to the Notice of Ruling and Memorandum of Costs, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A), Rules of Professional Conduct.
25. By failing to respond to the telephone calls that Therance made from June through August 2003, failing to respond to the telephone calls that Therance made from the summer 2004 to May 2005, and failing to respond to the letter that Therance sent him on May 16, 2005, Respondent failed to respond promptly to the reasonable status inquiries of a client, in willful violation of Business and Professions Code, section 6068(m).
26. By not providing a written response to the allegations in the Therance matter or otherwise cooperating in the investigation of the Therance matter, Respondent failed to cooperate and participate in a disciplinary investigation, in willful violation of Business and Professions Code, section 6068(i).
27. By failing to maintain a mailing an address at which he can be contacted, Respondent failed to comply with section 6002.1, which requires the member to maintain his current office

address and telephone number with official membership records of the State Bar, in willful violation of Business and Professions Code, section 6068(j).

**FACTS RE CASE NO. 07-O-11430 (SBI)**

28. On June 10, 2004, the Supreme Court filed and served on Respondent at his Official Membership Address its disciplinary order in *In re Mazza*, Case No. S123405, which ordered that: Respondent be suspended from the practice of law for one year; execution of the suspension be stayed; and Respondent be placed on probation for three years with conditions. The Supreme Court ordered costs awarded to the State Bar. Respondent received the disciplinary order.
29. On July 10, 2004, the disciplinary order took effect in *In re Mazza*.
30. Pursuant to the Supreme Court Order, Respondent was required to comply with certain conditions of probation, including submitting written quarterly and CPA reports to the Office of Probation ("Quarterly Report") on each January 10, April 10, July 10, and October 10 of the probation period.
31. Respondent was also required within ten (10) days of any change, to report to the Membership Records Office of the State and to the Office of Probation of the State Bar of California, all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
32. Respondent failed to file his quarterly report and CPA report for the period ending September 30, 2004 by October 10, 2004.
33. Respondent failed to file his quarterly report and CPA report for the period ending December 31, 2004 by January 10, 2005.
34. Respondent failed to file his quarterly report and CPA report for the period ending March 31, 2005 by April 10, 2005.
35. Respondent failed to file his quarterly report and CPA report for the period ending June 30, 2005 by July 10, 2005.
36. Respondent failed to file his quarterly report and CPA report for the period ending September 30, 2005 by October 10, 2005.
37. On June 16, 2005, Respondent filed his quarterly reports and CPA reports for the periods ending September 30, 2004, December 31, 2004, and March 31, 2005. However, the quarterly report for the period ending March 31, 2005 was incomplete because Respondent failed to declare that "[d]uring the preceding calendar quarter, [he had] complied with all provisions of the State Bar Act and Rules of Professional Conduct."
38. On June 17, 2005, the Probation Deputy called Respondent and informed him that the quarterly report for the period ending March 31, 2005 was incomplete because he failed to

declare that “[d]uring the preceding calendar quarter, [he had] complied with all provisions of the State Bar Act and Rules of Professional Conduct.” Respondent received the message.

39. On June 23, 2005, Respondent filed his quarterly report for the period ending March 31, 2005 declaring that “[d]uring the preceding calendar quarter, [he had] complied with all provisions of the State Bar Act and Rules of Professional Conduct.”
40. On or about October 28, 2005, Respondent mailed his quarterly reports for the periods ending June 31, 2005 and September 30, 2005 to the Office of Probation, which were received by the Office of Probation on October 31, 2005.
41. On November 15, 2004, the Office of Finance/Membership Billing Services (“Membership Billing”) mailed the first fee statement regarding payment of Respondent’s membership fees for 2005 to Respondent at his Official Membership Address. Respondent received the first fee statement.
42. On December 15, 2004 and/or February 10, 2005, Membership Billing mailed correspondence to Respondent at 22817 Ventura Boulevard, #421, Woodland Hills, California 91364-1202, informing him that he had failed to comply with the rules to change his address and needed to resubmit his request to change his address. Respondent received the correspondence.
43. On February 7, 2005 Respondent changed his Official Membership Address to 22817 Ventura Boulevard #421, Woodland Hills, California 91364.
44. On February 28, 2005, Membership Billing mailed a second notice regarding payment of Respondent’s membership fees for calendar year 2005 to Respondent at his Official Membership Address. Respondent received the second notice.
45. On May 20, 2005, Membership Billing mailed a “Final Delinquent Notice” regarding payment of Respondent’s membership fees for calendar year 2005 to Respondent at his Official Membership Address. The final notice informed Respondent that he had failed to pay in full his membership fees and would be suspended from the practice of law effective September 16, 2005 if not paid. Respondent received the final notice.
46. On August 24, 2005, the Supreme Court suspended Respondent from the practice of law effective September 16, 2005.
47. On August 26, 2005, Member Billing mailed a Notice of Entry of Order of Suspension for Nonpayment of Fees to Respondent at his Official Membership Address. The notice of suspension notified Respondent that on August 24, 2005, the Supreme Court entered an order suspended him effective September 16, 2005 for failure to pay \$7,769.20. The notice of suspension was returned to the Membership Billing on or about September 12, 2005 with the notation on the envelope “Return to Sender · No Longer at this Address.”
48. On September 22, 2005, Respondent appeared and argued a Motion for Attorney Fees and Motion to Tax Costs on behalf of James Paul (“Paul”) in the Superior Court of the State of

California, County of Ventura ("Superior Court"), in the matter titled *James Paul v. Bruce Nearman & the City of Simi Valley*, Case No. SC 040068 ("*Paul v. Nearman*").

49. On September 27, 2005, Respondent signed and filed a Notice of Ruling setting forth the Superior Court's ruling on the Motion for Attorney Fees in *Paul v. Nearman*.
50. On September 21, 2005, Respondent and his client, Lori Cerone, appeared for a Mandatory Settlement Conference before the Superior Court of the State of California, County of Ventura ("Superior Court"), in the matter titled *Lori Cerone vs. Amyu Santiago*, Case No. CIV230274 ("*Cerone vs. Santiago*").
51. On October 31, 2005, Respondent changed his Official Membership Address to 5776-D Linero Canyon Road #4, Westlake Village, California 91362.

**CONCLUSIONS OF LAW RE CASE NO. 07-O-11430 (SBI)**

52. By failing to file his quarterly reports and CPA reports for: the periods ending September 30, 2004 and December 31, 2004 until June 16, 2005; and the period ending March 31, 2005 until June 23, 2005, when he had been ordered by the Supreme Court to file quarterly reports no later than January 10, April 10, July 10, and October 10 of each year; Respondent wilfully failed to comply with all conditions attached to any disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).
53. By failing to update his membership address from at least August 26, 2005 to on or about October 31, 2005 when he had been ordered by the Supreme Court to notify the Membership Records Office and the Office of Probation of any change of address and/or telephone number within ten days, Respondent wilfully failed to comply with all conditions attached to any disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).
54. By appearing on September 22, 2005 and signing a Notice of Ruling on September 27, 2005 in *Paul v. Nearman* when he was suspended from the practice of law and thereby failing to support the laws of the State of California in violation of Business and Professions Code section 6068(a), Respondent wilfully failed to comply with all conditions attached to any disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).
55. By appearing for a mandatory settlement conference on September 21, 2005 in *Cerone vs. Santiago* when he was suspended from the practice of law and thereby failing to support the laws of the State of California in violation of Business and Professions Code section 6068(a), Respondent wilfully failed to comply with all conditions attached to any disciplinary probation to comply with all conditions attached to any disciplinary probation.
56. By failing to file his CPA report for the period ending June 31, 2005 until on or about October 11, 2005, and his quarterly reports for the periods ending June 31, 2005 and September 30, 2005 until on or about October 28, 2005, Respondent wilfully failed to comply with all conditions attached to any disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

**FACTS RE CASE NO. 05-O-04436 (COATS)**

57. On September 16, 2005, Respondent was suspended from the practice of law by the Supreme Court for failure to pay his full membership fees for 2005.
58. On September 22, 2005, Respondent appeared and argued a Motion for Attorney Fees and Motion to Tax Costs on behalf of James Paul ("Paul") in the Superior Court of the State of California, County of Ventura ("Superior Court"), in the matter titled *James Paul v. Bruce Nearman & the City of Simi Valley*, Case No. SC 040068 ("*Paul v. Nearman*").
59. On or about September 27, 2005, Respondent signed and filed a Notice of Ruling setting forth the Superior Court's ruling on the Motion for Attorney Fees in *Paul v. Nearman*.

**CONCLUSIONS OF LAW RE CASE NO. 05-O-04436 (COATS)**

60. By appearing on September 22, 2005 and signing a Notice of Ruling on September 27, 2005 in *Paul v. Nearman* when he was suspended from the practice of law, Respondent held himself out as entitled to practice law and actually practiced law when he was not an active member of the State Bar in wilful violation of Business and Professions Code sections 6125 and 6126, and thereby failed to support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).

**FACTS RE CASE NO. 05-O-05125 (SBI)**

61. On September 16, 2005, Respondent was suspended from the practice of law by the Supreme Court for failure to pay his full membership fees for 2005.
62. On September 21, 2005, Respondent and his client, Lori Cerone, appeared for a Mandatory Settlement Conference before the Superior Court of the State of California, County of Ventura ("Superior Court"), in the matter titled *Lori Cerone vs. Amyu Santiago*, Case No. CIV230274 ("*Cerone vs. Santiago*").

**CONCLUSIONS OF LAW RE CASE NO. 05-O-05125 (SBI)**

63. By appearing for a mandatory settlement conference on September 21, 2005 when he was suspended from the practice of law, Respondent held himself out as entitled to practice law and actually practiced law when he was not an active member of the State Bar in wilful violation of Business and Professions Code sections 6125 and 6126, and thereby failed to support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).

**FACTS RE CASE NO. 05-O-00068 (STOWERS)**

64. On April 2, 2001, Gary Stowers ("Gary") and his wife, Rebecca, (collectively the "Stowers"), were involved in a motor vehicle accident with Eugene Solomon ("Solomon").

65. Between April 2, 2001 and August 14, 2001, the Stowers hired Respondent to represent them in their claims against Solomon.
66. On August 14, 2001, Respondent filed a complaint on behalf of the Stowers in the Superior Court entitled *Gary Stowers and Rebecca Stowers v. Eugene Solomon*, Los Angeles Superior Court Case No. MC 012862 ("*Stowers v. Solomon*").
67. From April 2001 through in July 2001, Gary sought treatment with Paul Moll, D.C., for the injuries he sustained in the accident with Solomon.
68. On April 11, 2001, Gary and Respondent signed a medical lien granting Dr. Moll a lien on any settlement Gary may receive.
69. On August 29, 2001, Respondent mailed a letter to Dr. Moll in which he enclosed the signed medical lien. Respondent asked the doctor to prepare Gary's final medical bill at the doctor's earliest convenience. Thereafter, Dr. Moll's office mailed Respondent a copy of Gary's \$2,424.15 bill. Respondent received the bill.
70. On July 15, 2003, Respondent dismissed the complaint of Rebecca in *Stowers v. Solomon* with the Stowers' consent.
71. On January 31, 2004, Gary authorized Respondent to settle *Stowers v. Solomon* for \$15,000, and the case settled for that amount.
72. In late February of 2004 or early March of 2004, the attorneys for Solomon provided Respondent with the settlement check in the amount of \$15,000 (the "\$15,000"). The check was payable to "Gary Stowers and Law Office of Steven Mazza." Respondent received the check.
73. On March 12, 2004, Respondent deposited the check into an account at Wells Fargo Bank entitled "Steven L. Mazza dba Law Office of Steven L. Mazza," account number 1936432382.
74. Pursuant to his retainer agreement with Gary, Respondent was entitled to a contingency fees of 33% of the settlement proceeds, *i.e.*, approximately \$5,000 of the \$15,000.
75. On August 30, 2004, the billing department in Dr. Moll's office ("the doctor's office") mailed a letter to Respondent memorializing a May 12, 2004 conversation with Respondent's office in which the doctor's office was informed that Gary's case had settled and that Respondent would mail the doctor a check in the amount of \$2,424.15 within a month. The letter further stated that the doctor's office had tried without success to contact Respondent by telephone for five weeks. Respondent received the letter, but did not cause Gary's bill to be paid.
76. On January 4, 2005, the doctor's office wrote a letter to Gary in which they informed him that they had attempted to contact Respondent several times in order to resolve his bill, but they did not receive any response from Respondent. The doctor's office enclosed a copy of Gary's bill and asked that Gary contact them. Gary received the letter. In or about Winter



2005, Gary paid Dr. Moll's bill which, due to interest accruing on the principle amount, had increased to \$3,468.55.

77. On December 9, 2005, Gary faxed and mailed a memo to Respondent via certified mail, return receipt requested, at his then place of employment, Masry & Vititoe, 5707 Corse Avenue 2<sup>nd</sup>, Westlake Village, California 91362-4048. The memo stated that Gary had left numerous messages requesting that Respondent contact him, that he demanded payment of the settlement proceeds in his case within ten days, and that Gary would initiate legal action if Respondent did not distribute the settlement proceeds. The memo also informed Respondent that Gary had paid his \$3,468.55 bill to Dr. Moll. Kimbell signed the Domestic Return Receipt to receive the letter. Respondent received the letter, but did not respond to it, distribute the settlement proceeds, or otherwise communicate with Gary.
78. Respondent never disbursed any portion of the \$15,000 settlement to, or on behalf of, Gary, and therefore constructively misappropriated those funds.
79. Respondent dishonestly or with gross negligence misappropriated \$10,000 of Gary's funds.
80. Between May of 2004 and June of 2004, Gary placed approximately 12 calls to Respondent's office to discuss the status of his case. Respondent was unavailable each time Gary called and so Gary left messages with Respondent's assistant or on Respondent's voice mail system for Respondent to call him and provide him with a status report. Respondent received the messages, but did not communicate with Gary.
81. Between March 2005 and early April of 2005, Gary placed approximately 12 calls to Respondent's office to discuss the status of his case. Respondent was unavailable and Gary left messages with Respondent's assistant or on Respondent's voice mail system for Respondent to call him and provide him with a status report. Respondent received the messages, but did not communicate with Gary.
82. In early April of 2005, Gary spoke with Respondent's assistant, Shari Kimbell ("Kimbell"), who assured Gary that Respondent would distribute the settlement proceeds in his case by the end of that week. Respondent did not distribute the settlement proceeds, or otherwise communicate with Gary.
83. On April 27, 2005, Gary faxed and mailed a letter to Respondent stating that Gary had left numerous messages requesting that Respondent contact him, Kimbell had assured him in early April 2005 that Respondent would distribute his settlement proceeds to him by the end of the week, Gary had left 15 messages on Kimbell's voice message system since then to request distribution of the settlement proceeds, and Gary would initiate legal action if Respondent did not distribute his settlement proceeds. Respondent received the letter, but did not respond to it, distribute the settlement proceeds, or otherwise communicate with Gary.
84. On December 30, 2004, the State Bar opened an investigation, Case No. 05-O-00068, pursuant to a complaint filed by Gary (the "Stowers investigation").

85. On February 7, 2005, Respondent changed his official membership address to 22817 Ventura Boulevard #421, Woodland Hills, California 91364 (the "Ventura Boulevard address").
86. On May 6, 2005 and May 31, 2005, a State Bar Investigator ("Investigator") prepared letters to Respondent regarding the Stowers investigation. The letters were placed in sealed envelope correctly addressed to the Respondent at the Ventura Boulevard address. The envelopes were properly mailed by first class mail, postage prepaid, by depositing for collection by the U.S. Postal Service in the ordinary course of business.
87. The letters requested that Respondent respond in writing by May 20, 2005 and June 14, 2005, respectively, to specified allegations of misconduct being investigated by the State Bar in the Stowers investigation. Respondent received the letters.
88. Respondent did not respond to the letters or otherwise communicate with the Investigator.

**CONCLUSIONS OF LAW RE CASE NO. 05-O-00068 (STOWERS)**

89. By failing to pay Dr. Moll for the chiropractic treatment he rendered to Gary, and by failing to pay Gary the balance of the settlement funds, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive, in wilful violation of rule 4-100(B)(4), Rules of Professional Conduct.
90. By failing to disburse \$10,000 of Gary's funds for more than four years, Respondent misappropriated those funds, thereby committing an act or acts involving moral turpitude, dishonesty or corruption, in wilful violation of Business and Professions Code section 6106.
91. By failing to respond to the letters sent to his official membership address and place of employment, as well as to the messages left with his assistant or on his voice mail system in which Gary asked for the status of his case, Respondent failed to respond promptly to the reasonable status inquiries of a client, in wilful violation of Business and Professions Code section 6068(m).
92. By not providing a written response to the allegations in the Stowers matter or otherwise cooperating in the investigation of the Stowers matter, Respondent wilfully failed to cooperate and participate in a disciplinary investigation, in wilful violation of Business and Professions Code section 6068(i)

**FACTS RE CASE NO. 05-O-04891 (DE DIOS)**

93. On June 9, 2000, Angel De Dios ("De Dios") hired Respondent to represent him in a motor vehicle accident. The driver of the opposing vehicle was Kathleen Monroe ("Monroe").
94. De Dios received health care treatment from H. Ronald Fisk, M.D. ("Dr. Fisk"), Stephen B. Fierstein, M.D. at Beverly Hills Imaging Medical Center ("Dr. Fierstein"), and Paramount Physicians Medical Center ("PPMC") (collectively "healthcare providers") for the injuries caused by the motor vehicle accident.
95. De Dios signed medical liens that were provided to him by all three healthcare providers granting them liens on any settlement. Respondent signed the lien in favor of Dr. Fierstein.

96. On July 19, 2000, Respondent filed a complaint on behalf of De Dios in the Superior Court entitled *Angel De Dios v. Kathleen Monroe*, Los Angeles Superior Court Case No. VC032186 ("*De Dios v. Monroe*").
97. Dr. Fierstein billed Respondent for multiple MRIs that had been taken on two different dates. The earlier MRIs are hereafter referred to as "Account #1" and the later MRIs are hereinafter referred to as "Account #2."
98. On November 10, 2000, Dr. Fierstein's office mailed a medical billing statement to De Dios demanding payment of \$3,675 for De Dios second set of MRIs ("Account #2"). That statement was the first statement that De Dios had received from any of his health care providers. De Dios received the statement, called Respondent's office, and spoke with Respondent. Respondent told De Dios to forward all invoices from his healthcare providers to Respondent's office and Respondent would handle them.
99. On April 6, 2001, Dr. Fierstein's office mailed a statement to De Dios demanding payment of \$3,675 for Account #2. De Dios received the statement and faxed it to Respondent for payment. Respondent received the statement.
100. On January 2, 2002, the parties to *De Dios v. Monroe* settled De Dios's bodily injury claim for \$25,000. On that date, Respondent told De Dios that Respondent would pay De Dios's health care providers out of the settlement funds.  
On January 31, 2002, the automobile insurance carrier for Monroe mailed a check to Respondent in the amount of \$25,000 (the "\$25,000") for De Dios's bodily injury settlement. Respondent received the check and De Dios endorsed it.
101. According to the written retainer agreement between Respondent and De Dios, Respondent was entitled to 40% of De Dios's \$25,000 settlement, or \$10,000 in attorney's fees.
102. On August 13, 2002, PPMC mailed a letter to De Dios demanding payment of \$7,028. De Dios received the statement, called Respondent's office, and left a message for Respondent to call him and provide the status of the payments to De Dios's healthcare providers. On August 15, 2002, De Dios faxed PPMC's letter to Respondent. Respondent received the message and letter.
103. On December 31, 2002, January 7, 2003, January 31, 2003, February 7, 2003, and February 28, 2003, Dr. Fierstein's office mailed statements to De Dios demanding payment for De Dios's first set of MRIs ("Account #1") and for Account #2 which, combined, totaled \$4,675. De Dios received the statements and faxed them to Respondent for payment. Respondent received the statements.
104. On March 5, 2003, Respondent entered into an agreement with Dr. Fierstein's office to pay \$4,475 in satisfaction of Accounts #1 and #2.
105. On March 7, 2003, Dr. Fierstein's office mailed two letters to Respondent at his then official membership address, 3550 Wilshire Boulevard #600, Los Angeles, California 90010, with courtesy copies to De Dios at his own address. The letters confirmed Respondent's

agreement to pay them \$4,475 in satisfaction of Accounts #1 and #2. Respondent and De Dios received the letters.

106. On March 7, 2003 and June 6, 2003, Dr. Fierstein's office mailed statements to De Dios demanding payment of \$1,800 for Account #1. In the statement, Dr. Fierstein reminded Respondent of their agreement to accept \$4,475 in satisfaction of Accounts #1 and #2. The doctor further stated that if he did not receive payment within two weeks, the doctor would withdraw the lien and bill De Dios directly. Respondent received the March 7, 2003 and June 6, 2003 statements. In addition, De Dios faxed Respondent copies of the statements De Dios had received. Respondent received the facsimiles.
107. On July 3, 2003, Dr. Fierstein's office mailed letters to De Dios demanding payment of \$1,800 for Account #1 and \$3,675 for Account #2. De Dios received the letters and faxed them to Respondent for payment. Respondent received the letters.
108. On August 18, 2003, De Dios received a letter from Financial Debt Recovery, Inc. ("FDR"), a collection agency working on behalf of Dr. Fierstein. The letter demanded that De Dios pay the increased amounts of \$2,123.36 for Account #1 and \$4,825.07 for Account #2.
109. On August 25, 2003, De Dios faxed a memo to Respondent in which he enclosed FDR's August 18, 2003 letter. De Dios asked Respondent to resolve his medical bills as soon as possible and to contact De Dios. Respondent received the memo and FDR's letter.
110. On September 12, 2003, De Dios received another letter from FDR requesting that De Dios contact FDR to arrange payment of \$4,860 for Account #2. De Dios faxed the September 12, 2003 letter to Respondent. Respondent received the letter.
111. Respondent did not respond to the medical billing statements or any of the correspondence sent to him regarding Accounts #1 and #2, pay Dr. Fierstein, or otherwise communicate with De Dios, Dr. Fierstein, or FDR.
112. When Respondent did not pay Dr. Fierstein, De Dios began making monthly payments to Dr. Fierstein. De Dios has paid Dr. Fierstein in excess of \$5,500, and he continues to make monthly payments to FDR in satisfaction for Accounts #1 and #2.
113. On May 10, 2006, Respondent mailed a check to Dr. Fisk for \$1,492.19.
114. In October 2007, Respondent mailed PPMC a check in the amount of \$3,177.14.
115. After paying Dr. Fisk and PPMC, Respondent was to have held \$10,330.67 for the benefit of De Dios.
116. Respondent made no further disbursements of De Dios's settlement funds to, or on behalf of, De Dios and therefore constructively misappropriated \$10,330.67 of De Dios's funds.
117. Respondent intentionally, or with gross negligence, misappropriated \$10,330.67 of De Dios's funds.

## **CONCLUSIONS OF LAW RE CASE NO. 05-O-04891 (DE DIOS)**

118. By not paying Dr. Fisk until over four years after Respondent received De Dios's settlement funds, by not paying PPMC until over five years after Respondent received De Dios's settlement funds, and by not paying Dr. Fierstein at all, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive, in wilful violation of rule 4-100(B)(4), Rules of Professional Conduct.
119. By failing to disburse \$10,330.67 of De Dios's funds for over six years, Respondent misappropriated those funds, thereby committing an act involving moral turpitude, dishonesty or corruption, in wilful violation of Business and Professions Code section 6106.

## **WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY**

The parties waive any variance between the Notice of Disciplinary Charges filed on April 25, 2007, in case nos. 05-O-04436, 05-O-05125, 07-O-011430; the NDC charges filed on April 4, 2008, in case nos. 05-O-00068, 05-O-04891, and the NDC charges filed on November 9, 2005, in case no. 05-O-02838 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

## **PENDING PROCEEDINGS**

The disclosure date referred to on Page 2, paragraph A.(7), was made on September 3, 2010.

## **DISMISSALS**

The parties respectfully requests that the Court dismiss in the interest of justice the following alleged violations in the Notice of Disciplinary Charges ("NDC") herein filed on April 25, 2007, April 4, 2008 and November 9, 2005:

<b>Case No.</b>	<b>Count</b>	<b>Alleged Violation</b>
05-O-2838	two	Business and Professions Code § 6103
05-O-2838	four	Business and Professions Code § 6068(m)
05-O-2838	five	Rules of Professional Conduct, rule 3-700(A)(2)
05-O-04436	four	Business and Professions Code § 6106
07-O-11430	seven	Business and Professions Code § 6106
07-O-11430	eight	Business and Professions Code § 6068(k)
07-O-11430	ten	Business and Professions Code § 6106
07-O-11430	eleven	Business and Professions Code § 6068(k)

Case No.	Count	Alleged Violation
07-O-11430	twelve	Business and Professions Code § 6106
05-O-04891	seven	Business and Professions Code § 6106

### **COSTS OF DISCIPLINARY PROCEEDINGS**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 3, 2010, the costs in this matter are approximately \$8,875.36. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the costs of further proceedings.

### **AGGRAVATING CIRCUMSTANCES**

#### **Prior Record of Discipline. (Standard 1.2(b)(i))**

Respondent has two prior records of discipline. This is an aggravating circumstance under Standard 1.2(b)(i) of the Standards for Attorney Sanctions for Professional Misconduct ("Standards").

In case no. 97-O-12635, effective July 10, 2004, Respondent received 1 year stayed suspension, 3 years probation for violations of Rules of Professional Conduct, rule 4-100(B)(3) and rule 4-200.

In case no. 98-O-01674, upon successful completion of the Alternative Discipline Program ("ADP"), the Hearing Department recommended 6 months actual suspension. The recommendation was transmitted to the Supreme Court on August 11, 2010, and is awaiting final effectuation.

#### **Trust Fund Violations. (Standard 1.2(b)(iii))**

Respondent misappropriated client funds in the Stowers and DeDios matters.

#### **Multiple Acts of Misconduct. (Standard 1.2(b)(ii))**

In six separate matters, Respondent committed multiple acts of misconduct.

#### **Harm. (Standard 1.2(b)(iv))**

By misappropriating funds in the De Dios and Stowers matters, Respondent's clients were forced to pay their medical bills, some of which had gone into collections accruing significant interest which they had to pay, Respondent significantly harmed his clients. Respondent has since returned all funds to the clients in full.

### **MITIGATING CIRCUMSTANCES**

Steven L. Mazza, Respondent ("Respondent") was admitted to the California State Bar on December 1, 1981, and successfully practiced law without any discipline history until June 1997, when he was arrested and his client files, bank records, computers and office equipment was seized by law enforcement. Respondent was charged in with 40 felony counts involving capping, money-laundering

and filing a false income tax return. Respondent was given limited access of 30 to 60 minutes a week to make copies of his client files.

In December 1997, Respondent's law office was again raided by law enforcement who again seized all of his 300 to 400 client files, bank records, computers and office equipment. Law enforcement also seized checks to clients in the files it seized. Those checks were never returned.

Thereafter, essentially all of Respondent's resources went toward defending the charges causing severe financial stress.

In January 1999, all criminal charges against Respondent were dismissed by the court following a Preliminary Hearing. Law enforcement refused to return any of Respondent's client files or other documents and records seized on the grounds that new charges might be filed. No new charges were ever filed.

In January 2000, law enforcement returned some of Respondent's client files and office documents comprised of approximately 40 boxes, which had been torn apart and were in a state of disarray. In May 2001, law enforcement returned another 8 boxes of client files and documents, also in a state of disarray. Respondent believes that approximately 20 client files were never returned.

Respondent attempted to reconstruct the files and determine the status of the matters and maintain his law practice. Respondent stoically dealt with increasing depression, anxiety and panic. He did not seek professional help.

#### **Family Problems and Emotional Difficulties**

During this time Respondent's marriage was ending. His wife was dating a man who was an alcoholic and drug addict. Over Memorial Day weekend 1999, his wife's boyfriend was driving with a blood alcohol concentration over .20. Respondent's 9 year old son was in the Jeep. The Jeep was speeding across the desert, crashed and Respondent's son was killed.

Respondent experienced profound grief, depression and anxiety, which became paralyzing. Respondent dedicated the next years of his life participating in the criminal investigation and prosecution of the driver, who was convicted and sent to prison. Respondent's mental malaise and impairment from the destruction of his law practice was exacerbated by the death of his son.

Respondent continued to unsuccessfully attempt to reconstruct his client files and continue his practice until 2004, when he closed his office and went to work for a nationally recognized law firm. He successfully worked there until the death of a managing partner. The firm wanted him to become involved in administration and management. He left and joined another law firm of where he is presently employed.

#### **Rehabilitation**

On or about March 4, 2005, this Court referred Respondent to LAP and he became a candidate for ADP. Respondent began psychotherapy and grief counseling. On June 23, 2010, Respondent successfully graduated ADP, and on or about August 11, 2010, the Court sent its Transmittal of State Bar Court Recommendation to the California Supreme Court.

### Restitution

Respondent misappropriated funds in the Stowers and DeDios matters. On May 12, 2008, Respondent paid Stowers \$6,000 and on March 31, 2010, Respondent paid Stowers \$7,968.55. On September 8, 2008, Respondent paid DeDios \$5,000.

On March 31, 2010 Respondent paid DeDios \$7,460.64. In addition, on May 10, 2006 Respondent paid the medical bills as follows: Beverly Hills Imaging in the amount of \$2,470.32; H. Ronald Fisk in the amount of \$1,492.19; Paramount Physicians Medical Group in the amount of \$3,177.14.

### AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

The Supreme Court has emphasized the importance of the standards and held that great weight should be given to the application of the standards in determining the appropriate level of discipline. The Court indicated that unless it has "grave doubts as to the propriety of the recommended discipline," it will uphold the application of the standards. *In re Silvertown* (2005) 36 Cal. 4th 81, 91-92.

However, the Court in *Silvertown* also indicated that the State Bar may deviate from the Standards where there exists grave doubt as to the propriety of applying them in a particular case. (*Silvertown* 36 Cal. 4th at 92.) For example, deviation from the *Standards* may be appropriate where extraordinary circumstances exist or where the imposition of discipline called for by the Standards would be manifestly unjust.

**Standard 1.7 (b)** addresses the effects of prior discipline as follows: "If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate."

Respondent's prior record of discipline is a serious aggravating circumstance. However, the court in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar. Ct.Rptr. 602, 619, held that "the aggravating force of prior discipline is generally diminished if the misconduct underlying it occurred during the same time period. The misconduct in the Stowers, DeDios and Therance matters were contemporaneous with misconduct in Respondent's prior case no. 97-O-12635. Thus, a deviation from this standard under the *Sklar* analysis appears to be appropriate.

**Standard 2.2(a)** provides that "[c]ulpability of a member of willful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances."



Respondent misappropriated funds in the Stowers and DeDios matters. On May 12, 2008, Respondent paid Stowers \$6,000 and on March 31, 2010, Respondent paid Stowers \$7,968.55. On September 8, 2008, Respondent paid DeDios \$5,000 with check no. 548.

On March 31, 2010 Respondent paid DeDios \$7,460.64. In addition, on May 10, 2006 Respondent paid the medical bills as follows: Beverly Hills Imaging in the amount of \$2,470.32; H. Ronald Fisk in the amount of \$1,492.19; Paramount Physicians Medical Group in the amount of \$3,177.14.

However, Respondent's mitigation is quite extraordinary in that he experienced serious family and personal problems that severely impacted his law practice and caused him extreme emotional and mental problems. In addition, Respondent has successfully addressed his problems by participating in LAP and ADP over the last four to five years. Therefore, deviation from the Standards appears to be appropriate in this matter.

(Do not write above this line.)

In the Matter of <b>STEVEN LANCE MAZZA, No. 101076</b>	Case number(s): 05-O-00068, 05-O-04891, 05-O-02838, 05-O-04436, 05-O-05125, 07-O-11430
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### SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

9/23/10

Date

9-27-10

Date

9-27-10

Date

Steven L. Mazza

Respondent's Signature

Michael G. Gerner

Respondent's Counsel Signature

Bitu Shasty

Deputy Trial Counsel's Signature

STEVEN L. MAZZA

Print Name

MICHAEL G. GERNER

Print Name

BITA SHASTY

Print Name

(Do not write above this line.)

In the Matter Of  
**STEVEN L. MAZZA, No. 101076**

Case Number(s):  
**05-O-00068, 05-O-04891, 05-O-02838, 05-O-04436,  
05-O-05125, 07-O-11430**

### ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public,  
IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without  
prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE  
RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth  
below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☒ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify  
the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies  
or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The  
effective date of this disposition is the effective date of the Supreme Court order herein,  
normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

10-7-10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court

**RICHARD A. HONN**

## CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 18, 2010, I deposited a true copy of the following document(s):

### **STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING**

in a sealed envelope for collection and mailing on that date as follows:

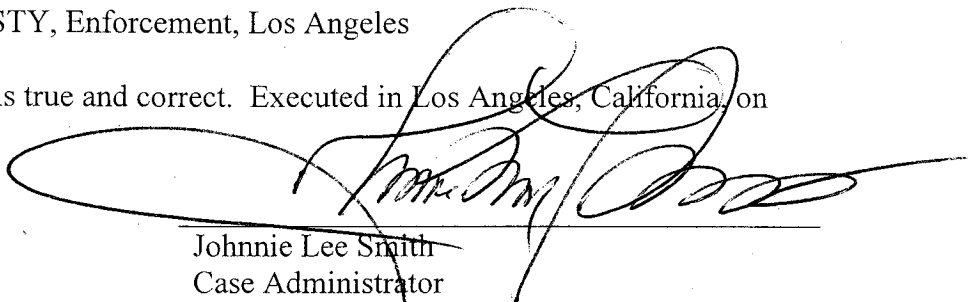
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL GALEN GERNER  
MICHAEL G GERNER, A PROF LAW CORP  
425 S BEVERLY DR STE 210  
BEVERLY HILLS, CA 90212

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

BITA SHASTY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 18, 2010.

  
\_\_\_\_\_  
Johnnie Lee Smith  
Case Administrator  
State Bar Court